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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,500	09/01/2005	Angelica Malmberg	1501-1285	5382
466	7590	07/09/2008	EXAMINER	
YOUNG & THOMPSON 209 Madison Street Suite 500 ALEXANDRIA, VA 22314				HELLING, KAITLYN ELIZABETH
ART UNIT		PAPER NUMBER		
4166				
		NOTIFICATION DATE		DELIVERY MODE
		07/09/2008		ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

[embon@young-thompson.com](mailto:embon@young-thompson.com)

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/519,500	MALMBERG ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	KAITLYN E. HELLING	4166	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 27 July 2007.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 11-20 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 11-20 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 30 December 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>12/30/2004 and 7/27/2008</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____ .

## DETAILED ACTION

### ***Specification***

1. The use of the trademark VELCRO has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 11, 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. 3,468,299 to D'Amato (D'Amato).

#### In Reference to Claim 11

D'Amato teaches a patient garment having sleeves (Fig. 1) and comprising a front piece (18, Fig. 1) and a back piece (16, Fig. 1), characterized in that the front piece is wholly or partially made up of an outer layer of a material with little air permeability (Col. 2, lines 10-13) and an inner layer of a material with a significantly higher air permeability than the outer layer (Col. 2, lines 35-39 and lines 46-48), which extends over at least part of the outer layer and is attached to the latter (Col. 2, lines 39-44) in such a way that a space is formed between the outer and inner layer (Col. 2, lines 44-

46), and that at least one inlet (Fig. 2) connectable to a source of warm air is located on the front piece of the garment and leads to the space between the inner and outer layer.

In Reference to Claim 16

D'Amato teaches a patient garment according to claim 11 (see rejection of claim 11 above), characterized in that the inner layer of the back piece and the front piece is made of an air-permeable non-woven (Col. 2, lines 36-39 and 47-49) and the outer layer of the front piece is made of a non-air-permeable material (Col. 1, lines 41-43), e.g. a plastic film or a laminate of plastic film and non-woven.

In Reference to Claim 17

D'Amato teaches a patient garment according to claim 11 (see rejection of claim 11 above) characterized in that the inner layer extends over the whole of the outer layer (Fig. 1).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 12, 13, 14, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 3,468,299 to D'Amato in view of 3,507,321 to Palma (Palma).

In Reference to Claims 12 and 13

D'Amato teaches a patient garment according to Claim 11 (see rejection of claim 11 above), but does not teach the front and back pieces as detachably and reclosably connected to each other. Palma teaches to provide a garment with the front and back pieces are detachably and reclosably connected with each other, at least in the area from the shoulder parts to the end of the sleeve (12 and 14, Fig. 1 and Col. 2 lines 26-37). Similarly, Palma teaches the front piece including openable parts to allow access to the area for operation (Fig. 1).

It would have been obvious to one having ordinary skill in the art at the time of the invention to have modified the garment of D'Amato to include the modality of detachable and enclosable sections as taught by Palma in order to facilitate dressing as well as selectively applying temperature treatment. These sections will also inherently allow for hospital staff to access particular parts of the patients body as necessary.

In Reference to Claim 14

D'Amato teaches the garment according to claim 13 (see rejection of claim 13 above) designed as a coat (Fig. 1), that the front piece has a central slit (Fig. 1) which extends from the bottom end of the coat to its breast part (fig. 1), and that those parts of the front piece which extend along the edges of the slit are connected with each other by means of a detachable and reclosable connection (Fig. 1).

It would have been obvious to one having ordinary skill in the art at the time of the invention to have further modified the references as applied to claim 13 in order to have incorporated a coat shaped design of D'Amato as these changes in shape would be a matter of choice which a person of ordinary skill in the art would find obvious since

no evidence is presented that this particular shape is significant (see MPEP 2144.04, IV.B.).

In Reference to Claim 20

Both Palma (Fig. 1) and D'Amato (Fig. 1) teach openings in the center region of the front piece of the patient garment. Palma also teaches the ability to open and close the garment in a variety of places. Therefore the patient garment according to claim 14 (see rejection of claim 14 above), characterized in that the garment has an openable back does not render the claim patentable distinct. If it was desirable for any reason to access the back of the person through an opening, it would be obvious to provide an openable back for that purpose.

6. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 3,468,299 to D'Amato and 3,507,321 to Palma as applied to the rejection of claim 13 above and further in view of U.S. 5,383,918 to Panetta (Panetta).

In Reference to Claim 15

D'Amato in view of Palma teaches a patient garment according to Claim 13 (see rejection of claim 13 above), but does not teach the garment designed as pyjamas. Panetta, however, teaches that the garment is designed as a pyjama with a top part (Fig. 9) and a trouser part (Fig. 9), and that the front piece (Fig. 9) of the top part is connected with the back piece by means of a detachable and reclosable connection (Col. 2, lines 65-66), at least along the sides from the lower end of the top part to the breast part thereof (32 and 35, fig. 9).

It would have been obvious to one having ordinary skill in the art at the time of the invention to have modified the garment according to claim 13 (see explanation of claim 13 above) to be two pieces which allows for access to the abdominal region as well as the extremities through the seems while minimizing heat loss from the rest of the body (Col. 2, lines 50-59) as taught by Panetta.

7. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 3,468,299 to D'Amato and U.S. 3,507,321 to Palma as applied to claim 13 above, and further in view of U.S. 5,405,370 to Irani (Irani).

In Reference to Claim 18

D'Amato in view of Palma teaches the patient garment according to claim 13 (see rejection of claim 13 above), but fails to disclose the inner and outer layer being laminated along the marginal area of the openable parts. However, Irani teaches the inner layer is laminated to the outer layer within the marginal area of the openable parts of the front (col. 3, lines 12-16 and 28-29).

It would have been obvious to one having ordinary skill in the art at the time of the invention to have used the heat seals of Irani in order to seal the periphery of the patient garment as modified by D'Amato and Palma. Similarly, Irani discloses that other sealing means may be used as well (Col. 3, lines 28-29).

8. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 3,468,299 to D'Amato and 3,507,321 to Palma (Palma) as applied to claim 12 above, and further in view of U.S. 5,383,918 to Panetta (Panetta).

In Reference to Claim 19

D'Amato in view of Palma teaches a patient garment according to claim 12 (see rejection of claim 12 above), but does not disclose the connections as being mechanical and preferably VELCRO connection. However, Panetta teaches the detachable and reclosable connections which connect parts of the garment with each other are made up of mechanical connections (Col. 2, lines 66-67), preferably so-called velcro connections (Col. 2, line 68).

It would have been obvious to one having ordinary skill in the art to have used the hook and loop fasteners of Panetta with the modified patient garment of D'Amato in view of Palma in order to facilitate the detaching and reattaching of the front and back pieces.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KAITLYN E. HELLING whose telephone number is (571)270-5845. The examiner can normally be reached on Monday - Friday 7:30 a.m. to 5:00 p.m. EDT.

10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Bomberg can be reached on (571)272-4922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KH

/Kenneth Bomberg/  
Supervisory Patent Examiner, Art Unit 4124